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10/824,646

04/15/2004

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EXAMINER

NEWTON, JARED W

ART UNIT

PAPER NUMBER

3692

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

04/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/824,646 | Applicant(s) KRULL, KRYSTAL | |
| | Examiner Jared W. Newton | Art Unit 3692 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,12,16-20,22-24,29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,12,16-20,22-24,29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This final rejection is in reply to the remarks filed January 18, 2007, by which claims 1-30 were amended. Claims 1-10, 13-15, 21, and 25-28 stand withdrawn.

The Applicant is thanked for his reply to the Notice of Non-compliant Amendment mailed December 14, 2006.

Specification

The disclosure is objected to because of the following informalities:

- The fifth word, "shown", in line 10 of page 12 should be removed.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 20, 22-24 and 30 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 3,737,047 to Ruth (hereafter Ruth).

In regard to claim 19, Ruth discloses a rolling storage rack for supporting automobile tires T (see FIG. 2), said rack comprising: a plurality of tire storage racks 10 having spaced horizontally extending crossbars 14 with a fully open gap therebetween for supporting tires with a portion of the tires hanging below the crossbars and a portion

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of the tires extending laterally beyond the crossbars, the plurality of tire storage racks including movable storage racks, said movable storage racks being movable between fixed elements (walls, W – see FIG. 7) located at opposite sides of a group of the movable storage racks, the movable storage racks including lower wheels 15a, 16a for rolling in contact with the floor, a guide arrangement 18 for guiding movement of the movable storage racks, and at least one spacing element 15, 16, 17 for extending laterally from the racks a distance to separate the racks and to prevent tires on one rack from contacting tires on an adjacent rack by controlling an amount of space between adjacent ones of said plurality of storage racks so that when adjacent spacing elements are in contact, the spacing elements provide a separation between the racks to avoid contact of tires on adjacent racks (see FIG. 2 – said spacing elements 15, 16, 17 extend further in the lateral direction than do said tires T).

In regard to claim 20, Ruth further discloses said guide arrangement 18 extending between said fixed elements W (see FIG. 7).

In regard to claim 22, Ruth further discloses said guide arrangement including a guide rod 26, wherein a rod is defined as a thin straight stick or bar (see FIG. 3).

In regard to claim 23, Ruth further discloses said guide rod 26 cooperating with a guide sleeve 25 mounted on wheel 17a, which is mounted on the movable storage racks (see FIG. 1).

In regard to claim 24, Ruth further discloses said guide sleeve 25 as mounted to plates which form said spacing element 17 (see FIGS. 1 and 3).

In regard to claim 30, Ruth shows said rack supporting a plurality of tires T.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12, 16, 17, 18, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 3,737,047 to Ruth (hereafter Ruth) in view of US Patent No. 4,991,725 to Welsch et al. (hereafter Welsch).

In regard to claim 11, Ruth discloses a rolling storage rack 10 for supporting automobile tires T (see FIG. 2), said rack comprising: a plurality of tire storage racks 10 having spaced horizontally extending crossbars 14 with a fully open gap therebetween for supporting tires with a portion of the tires hanging below the crossbars and a portion of the tires extending laterally beyond the crossbars, a guide arrangement 18 for guiding movement of the movable storage racks, each of said movable storage racks including lower wheels 15a, 16a for rolling in contact with a floor, said lower wheels being vertically oriented, and at least one spacing element 15, 16, 17 for extending laterally from the racks a distance to separate the racks and to prevent tires on one rack from contacting tires on an adjacent rack by controlling an amount of space between adjacent ones of said plurality of storage racks when a spacing element of one of the plurality of storage racks contacts a spacing element of an adjacent one of the plurality of storage racks so that when adjacent spacing elements are in contact, the spacing

elements provide a separation between the racks to avoid contact of tires on adjacent racks (see FIG. 2).

In regard to claim 12, Ruth further discloses said spacing element including at least one arm 22 located spaced from the storage rack on which the spacing element is mounted (see FIG. 1).

In regard to claim 16, Ruth further discloses said wheels encased in a protective boot formed by spacing elements 15, 16, and 17 (see FIG. 1).

In regard to claim 17, Ruth further discloses a plurality of tires T located on said racks (see FIG. 2).

Ruth does not disclose:

- (a) fixed storage racks (claim 11);
- (b) said guide arrangement anchored to said fixed storage racks (claim 18);
and
- (c) said fixed elements being fixed storage racks (claim 29).

With respect to (a)-(c), Welsch discloses a compact storage system including movable racks 22 guided by a guide assembly 18 anchored between opposing fixed racks 12a and 12b (see FIG. 1). The Ruth and Welsch references are analogous art because they are from the same field of endeavor – rolling storage racks. It would have been obvious to one of ordinary skill in the art at the time of the invention to arrange the racks 10 disclosed by Ruth in the manner disclosed by Welsch, so that the outer racks, for instance the leftmost and rightmost racks shown in Figure 7 of Ruth, are fixed, and anchor the guide rod 26. Such an orientation of the racks taught by Ruth would enable

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the system to be placed in any location, without requiring the movable racks to be placed between walls, as shown in Figure 7. This motivation for movable racks is taught by Welsch, which recites, "The compact storage system of the present invention also incorporates a novel guide rail and mating guide roller configuration that facilitates ease of operation. Importantly, the system of the present invention may also be installed at any location having a generally flat floor without modification of the building or other surrounding structures. That is, this storage system may be complete [sic] self contained and need not be permanently attached to any surrounding structure, even though in some applications it may be desirable to do so." (See col. 2, lines 59-68).

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

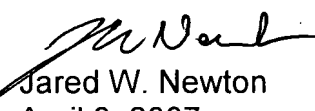
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jared W. Newton
April 9, 2007
JWN


RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER